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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,854	03/14/2000	Sadik Bayrakeri	19880-001610US	8158

26291	7590	11/16/2004

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EXAMINER
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ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 November 2003</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Remark

1.   Applicant's arguments filed 11/19/03 have been fully considered but they are not

persuasive. Please refer to the Response to Arguments below.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(e) the invention was described in (1) an application for patent, published under section
122(b), by another filed in the United States before the invention by the applicant for
patent or (2) a patent granted on an application for patent by another filed in the United
States before the invention by the applicant for patent, except that an international
application filed under the treaty defined in section 351(a) shall have the effects for
purposes of this subsection of an application filed in the United States only if the
international application designated the United States and was published under Article
21(2) of such treaty in the English language.*

3.   Claims 1-5, 7-13, and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by

Gordon et al. (U.S. Patent Pub No. 2003/0052905/ or "Gordon" hereinafter).

Regarding claim 1, Gordon discloses "a method for managing delivery of video

sequences of an interactive program guide (IPG) over a communications network to a plurality of

terminals" (Fig. 1 & 6A-6B, page 2/section 0013, and page 8/section 0082 for a cable television

delivery system, as the server system delivers packetized video stream or video packet sequences

within an applet to a plurality of terminals or to set top terminals 136 belongs to subscriber

equipments 106-1 ...106-n of Figure 1; and page 1/section 0004 for an interactive on-screen

program guide addressed), the method comprising:

"pre-allocating a broadcast bandwidth in the communications network for common video

sequences to be transmitted by a broadcast technique; transmitting in the broadcast bandwidth

the common video sequences to the plurality of terminals by way of the broadcast technique",

i.e., this broadcast technique refers to a standard or common broadcast is provided to a terminal

in the communications network whenever there is no specific technique is requested by any

specific terminal or referred to as "non-specific subscriber delivery" by using appropriate

bandwidth pre-allocation technique (page 11, section 0107).

"receiving a request for a specific video sequence from a specific terminal via the

communications network; allocating a demandcast bandwidth in the communications network

for the specific video sequence; and transmitting in the demandcast bandwidth the specific video

sequence to the specific terminal via the communications network", i.e., this specific technique

refers to as per a request for a specific video sequence from a specific terminal, for instance, a

pay-per-view show or a particular movie and so on, a demandcast bandwidth is provided to that

specific terminal based on the request using a dynamic allocation technique, or namely, "a

specific subscriber delivery" such as a point cast technique or a narrowcast technique with an

individual interactive information stream is allocated for that specific terminal is provided (Fig.

20, and page 13/section 0128).

As for claims 2 and 3, in view of claim 1, Gordon further discloses "wherein the common

video sequences are delivered using an in-band portion of the communications network" and

"wherein the specific video sequence is delivered using the in-band portion of the

communications network", i.e., broadcast video stream including the common video sequences

and the specific video sequences, or in other words, packetized video streams, are delivered

using an in-band data delivery of the communications network (page 14, section 0139).

As for claim 4, in view of claim 3, Gordon further discloses "wherein the requests are

received using an out-of-band portion of the communications network", i.e., a request from a

user or a terminal is using an outside signaling system or a separate network for communicating

to the communications network referred to as using an "out-of-band portion" of the

communications network (page 3, section 0049 for a back channel 134 for providing commands

from the user to the system via a telephone network); and as signaling or commands can either

provided through an in-band data delivery or an out-of-band data delivery (page 14, section

0139).

As for claim 5, in view of claim 4, Gordon further discloses "wherein the common video

sequences comprise IPG pages for a current time period", i.e., video sequences comprising IPG

pages are presented to the user in real-time with an on-screen navigator for interactively interact

with programs/sessions (page 1, section 0009) and available currently displaying programs are

displayed to the user with a program guide for a current time period, if not, a preview is shown

(page 2, section 0016).

As for claim 7, in view of claims 1 above, Gordon further discloses "wherein transmitting

the specific video sequence is performed using a narrowcast technique to a group of terminals

which includes the specific terminal", i.e., a narrowcast technique with an individual interactive

information stream is allocated for that specific terminal is provided (Fig. 20, and page

13/sections 0127 & 0128).

As for claims 8 and 9, in view of claim 1, Gordon further discloses "wherein transmitting the specific video sequence is performed using a PointCast technique" and "wherein the PointCast technique comprises a shared PointCast technique", i.e., a PointCast service and shared pointcast are used for providing information service based on the user request (page 13, section 0127 & 0128).

Regarding claim 10, Gordon discloses "a method for managing delivery of a plurality of video sequences that comprise interactive program guide (IPG) pages, the method comprising: predetermining a set of video sequences to be broadcast; allocating a broadcast bandwidth within a network with a finite bandwidth for the set of video sequences; broadcasting the set of video sequences via the broadcast bandwidth to a plurality of terminals; receiving a request from a specific terminal for a specific video sequence which is not within the set of video sequences to be broadcast; allocating a demandcast bandwidth within the network for the specific video sequence; transmitting the specific video sequence via the demandcast bandwidth to the specific terminal to fulfill the request", i.e., see claim 1 above and further with a limitation of "predetermining a set of video sequences to be broadcast" is disclosed by Gordon as an applet containing compressed packetized video stream or video sequences (page 2, section 0013) are delivered to the set top terminal from the server in a predetermining manner in response to instructions from the user, as an applet for a linked menu waiting at the set top terminal for the user to select or command a selected movie from the server (page 8, sections 0081 & 0082).

As for claim 11, in view of claim 10, Gordon discloses "wherein the broadcasting and transmitting occur by way of in-band communications in the network, and the receiving occurs by way of out-of-band communications in the network", i.e., the broadcasting and transmitting

occurs as broadcast video stream including the common video sequences and the specific video

sequences, or in other words, packetized video streams, are delivered using an in-band data

delivery of the communications network (page 14, section 0139) and the receiving occurs as a

request from a user or a terminal is using an outside signaling system or a separate network for

communicating to the communications network referred to as using an "out-of-band portion" of

the communications network (page 3, section 0049 for a back channel 134 for providing

commands from the user to the system via a telephone network); and as signaling can either

provided through an in-band data delivery or an out-of-band data delivery (page 14, section

0139).

As for claim 12, in view of claim 11, Gordon further discloses "wherein the first set of

video sequences comprises IPG pages for a current time period", i.e., video sequences

comprising IPG pages are presented to the user in real-time with an on-screen navigator for

interactively interact with programs/sessions (page 1, section 0009) and available currently

displaying programs are displayed to the user with a program guide for a current time period, if

not, a preview is shown (page 2, section 0016).

As for claim 13, in further view of claim 10, Gordon further discloses "comprising:

predetermining a second set of video sequences to be broadcast; and allocating a second

broadcast bandwidth within the network for the second set of video sequences; and broadcasting

via the second broadcast bandwidth the second set of video sequences to the plurality of

terminals", i.e., this technique refers to as per a request for a second (specific) video sequence

from a (specific) terminal or a plurality of terminals, for instance, a pay-per-view show or a

particular movie, a demandcast bandwidth is provided to that (specific) terminal(s) based on the

request using a dynamic allocation technique, or namely, "a specific subscriber delivery" such as

a point cast technique or a narrowcast technique with an individual interactive information

stream is allocated for that specific terminal is provided (Fig. 20, and page 13/section 0128).

As for claim 15, in view of claim 10, Gordon further discloses "wherein transmitting the

specific video sequence to the specific terminal comprises Pointcasting the specific video

sequence to the specific terminal", i.e., a Pointcast service is used for providing information

service to an individual (page 13, sections 0127 & 0128).

As for claims 16 and 17, in view of claim 15 above, Gordon further discloses "wherein

transmitting the specific video sequence is performed using a narrowcast technique to a group of

terminals which includes the specific terminal" and "predetermining a particular video sequence

to be narrowcast to a group of terminals; allocating a narrowcast bandwidth within the network

for the particular video sequence; and narrowcasting the particular video sequence via the

narrowcast bandwidth to the groups of terminals", i.e., a narrowcast technique with an individual

interactive information stream is allocated for that specific terminal is clearly provided (Fig. 20,

and page 13/sections 0127 & 0128).

As for claim 18, in view of claim 10, Gordon further discloses "comprising: receiving a

second request from a second specific terminal for the specific video sequence; and transmitting

the specific video sequence via the demandcast bandwidth to the second terminal, wherein the

demandcast bandwidth comprises a single stream which is used to transmit the specific video

sequence to both terminals", i.e., Fig. 1 as for illustration of more than two terminals 136 belongs

to subscriber equipments 106-1 to …106-n requesting broadcast services; as if a specific request

is sending from a second user of same network, first and second terminals receive one single

stream of specific broadcast service to them, for instance, a shared pointcast mode is applied as at least two or more users can receive a (single) particular information stream (page 13, section 0127).

As for claims 19 and 20, in view of claim 18, Gordon inherently discloses "comprising: one terminal from a group including both terminals finishing use of the specific video sequence; and continuing transmission of the specific video sequence via the demandcast bandwidth" and "comprising: another terminal from the group finishing use of the specific video sequence; and discontinuing transmission of the specific video sequence; and making the demandcast bandwidth available for re-allocation" because the broadcast technique is used herein based on the user's preference or their choice either broadcasting, pointcasting, shared pointcasting or narrowcasting; therefore, the user of one of both terminals can do whatever he desires, e.g., ordering a video sequence or a movie, and he stills continue to use the demandcast service if he prefers to order another one or discontinue the demandcast service, and making the demandcast bandwidth available for re-allocation for the server system by having the user's remote controller as for activating a command or not in ordering the demandcast service (page 13, sections 0126 & 0127 & 0128).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.*

5.   Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon

et al. above in view of Allison et al. (U.S. Patent No. 6,262,722/ or "Allison" hereinafter).

Regarding claims 6 and 14, in view of claims 5 and 13, Gordon does not further address

the step of "wherein the common video sequences further comprise IPG pages for a prime

viewing time period"; however, such a technique of providing IPG pages or interactive program

guide pages for a specific viewing time period such as a prime viewing time is too well-known in

the art. In fact, Allison teaches a same technique in offering an interactive program guide system

to viewers/users such that the viewer/user can customize their preferences based on a plurality of

choices which includes a setting up of a prime viewing time of day that a particular program or

event of interactive program guide can display, i.e., a prime viewing time means time people

refers to watch the show the most after back home from work (Fig. 7/item 108f, col. 7/line 38 to

col. 8/line 37 for details on program guide category options and col. 8/lines 9-11 for prime time

setting). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Gordon's system with a known technique as disclosed in

Allison's in order to provide users/viewers the option to view their prefer layout of category or

programs on their interactive program guide as suggested by Allison. The motivation for doing

this is to offer a flexible and convenience interactive program guide that offer video sequences, programs or events displaying according to the prime viewing time period as desired.

Response to Arguments

6.   Applicant's arguments filed on 11/19/03 have been fully considered but they are not persuasive.

Applicants argue and focus on "applets" of Gordon but tend to overlook the important concept of Gordon that "the navigator" that applicants referred to simply a tool for the users of Gordon to conveniently control and manipulate any requested sessions, but the service provider with a video session manager is mainly control the delivery of broadcasting programs, whether interactive or not and real-time or not (par. 009 & 010). In other words, the video session manager manages the bandwidth allocation for delivery to the users/subscribers in a dynamic and effective manner. Gordon discloses an exact interactive information distribution system that manages the available bandwidth whether to use broadcast, narrowcast, pointcast or shared pointcast to subscribers/users from a variety of sources including PPV, NVOD, VOD, internet services, satellite broadcasts, over-the-air broadcasts, cable broadcasts, interactive gaming, interactive shopping and etc. and video stream including MPEG (par 0048) is understood as "video sequences" (par 0104). Applicants are in error by stating that "Gordon only state that the video streams are suitable for providing the video information" because Gordon does not limit to digital stream but also to analog reception using over-the-air broadcasts (par. 0106 & 0104); furthermore, applicants misinterpret the meaning of Gordon by stating that "...maximally utilize the bandwidth..." by concluding that this present application of applicants "...prevent the usage

of extra bandwidth." No, definitely not, it simply means "effectively use the bandwidth at the

server and the subscriber side." Gordon does not use "extra bandwidth" as noted by applicants

by stating in paragraph 0107 that a "broadcast" is used by the system for "non-specific

subscriber delivery" and requires less expensive transmission technique than those used for

pointcast (subscriber specific delivery). Strangely, applicants are totally silent on issues of

broadcasting technique of "broadcasting, narrowcasting, pointcasting or shared pointcasting"

while, in fact, through out the specifications of this application (page 3, summary), applicants'

invention does the same of Gordon's.

In addition, the "pre-allocating a broadcast bandwidth..." and "...predetermining a set of

video sequences... and allocating a broadcast bandwidth" steps of claims 1 and 10 are simply

disclosed by Gordon as video streams are pre-assigned or pre-allocated for different channels at

different times together with their PIDs for identifying and other parameters such as sequence

header location, GOP structure, coding parameters, PID locations, program map tables and other

suitable information for the controller to process (par. 0123 & 0124), as soon as the user selects a

object which can change the broadcast mode at the headend, an appropriate broadcast mode is

used (par. 0127 & 0128). Again, if the user does not subscribe to any PPV or any interactive

program (called "non specific subscriber"), Gordon does not waste the bandwidth resource by

providing "extra bandwidth" to that user because it costly to do so as noted above. The present

application also mentions of "shared pointcast" technique for a small group of users for

"efficiently utilizes the network bandwidth allocated to pointcasts" (specifications, page 15), and

Gordon does exactly the same (par. 0127 & 0128).

As for the 103 rejection, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gordon does suggest that the IPG is broadcasting to the users at different times via different channels through out the day of 24 hours (par. 0104) including suggesting "a prime viewing time period," which simply refers to time period after work as discussed by the Examiner, and eventually, Allison teaches a same technique in offering an interactive program guide system to viewers/users such that the viewer/user can customize their preferences based on a plurality of choices which includes a setting up of a prime viewing time of day that a particular program or event of interactive program guide can display, i.e., a prime viewing time means time people refers to watch the show the most after back home from work (Fig. 7/item 108f, col. 7/line 38 to col. 8/line 37 for details on program guide category options and col. 8/lines 9-11 for prime time setting); and it serves as a motivation for users/subscribers to set up the IPG delivery during such prime time hours for enjoyment after work. The Examiner believes that the combination is perfectly proper and valid.

Therefore, the Examiner respectfully disagrees with the Applicants and stands with the disclosure and teaching of Gordon and Allison as previously disclosed in the Non Final Office action and discussed in this Final Office Action.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

8.   **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

9.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The

examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate

Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher Grant, can be reached on (703) 305-4755.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to Technology Center 2600 Customer Service Office whose telephone number

is (703) 306-0377.

Krista Bui
Art Unit 2611
November 12, 2004

KRISTA BUI
PATENT EXAMINER